IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO.1201 OF 2006

Karunakar M. Shetty ...Petitioner.
V/s.
The State of Maharashtra & Anr. ...Respondents.

Mr.M.S.Karnik h/for Mr.P.M.Pradhan for the Petitioner.
Mrs.M.P.Mathur, A.G.P. for the Respondent Nos.1 and 2.

CORAM: B.H.MARLAPALLE &
J.H.BHATIA, JJ.
DATE : 30th November, 2006.

P.C.:

1. Heard the learned counsel for the petitioner. The petitioner claims to be the owner and proprietor of the Hotel namely, "Preeti Hotel" located on a plot of Survey No.3361/3362 on Lokmanya Tilak Nagar near Ambernath Railway Station and the area occupied by the said hotel is 145 Sq.ft. The petitioner admits that the said land belongs to the Government and he had initially constructed unauthorised structure but the same was regularised on certain terms and conditions by the order dated 12-5-97. He claims that he has been running the said business from 1968 and on the basis of licences issued by the municipal authorities. He challenges a Notification published in the Gazette dated 25-7-05 issued by the State Government under the Maharashtra Regional and Town Planning Act, 1966 whereby the said

plot of land adjacent to the hotel has been reserved for public purposes. He claims that before this Gazette Notification was issued, he objected to the Draft Development Plan but the same was not taken into consideration and he was not heard.

2. Shri Ramesh Sakharam Rathod, Town Planner from the office of the Assistant Director of Town Planning at Collectorate Thane has filed an affidavit and has stated that the subject plot is a part of the Mumbai Metropolitan Regional Development Authority which has published a Draft Development Plan under Section 26(1) of the Maharashtra Regional Town Planning Act on 10-5-01 thereby inviting suggestions/objections over the said Development Plan for the areas of Ambernath, Kulgaon, Badlapur and the surrounding areas. By an order dated 29-9-01, the Government has extended prescribed period of 60 days by additional 30 days, i.e., upto 8-8-01. Petitioner did not file any objections before 8-8-01. The Planning Committee after taking into consideration suggestions and objections of the members of the public, submitted a report to the planning authority and thereafter, a decision was taken to submit the same to the Government under Section 30 of the Act. On 20-2-04 the plan was published for the perusal of the public and

it is thereafter that the petitioner filed his objections on 19-3-04. There is no provision in the scheme of Section 28(4) for inviting objections once Draft Development Plan was submitted to the State Government and now the Government has finally sanctioned the said plan on 25-7-05 under Section 31(1) of the M.R.T.P. Act. Under these circumstances, the petitioner's challenge to the Development Plan approved by the State Government cannot be entertained.

3. Petition is hereby rejected summarily.

(J.H.BHATIA,J.) (B.H.MARLAPALLE,J.)